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C.M.P(MD)No.18738 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.01.2026

Pronounced on : 05.02.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.M.P(MD)No.18738 of 2025

in

A.S(MD)SR.No.84890 of 2025

S.Deivendran,
S/o. Saruha Gounder,
D.No.1/52,
Usilampatti Village,
Madurai North Taluk,
Madurai.

... Petitioner/Appellant

Vs.

1. The Special District Revenue Officer,
ep.v.Nj.Ne.Madurai Ring Road NH744-A,
Madurai.

2. P.Vijayakumar,
S/o. Parameswaran,
518, Karpaga Nagar 16th Cross Street,
K.Pudur,
Madurai - 625 007.

... Respondents/Respondents

PRAYER : Civil Miscellaneous Petition is filed under Section 5 of the Limitation Act, to Condone the delay of 170 days in filing the present appeal suit before this Court.



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For Petitioner : Mr.N.Shanmuga Selvam
for Mr.P.Murugesan

For R1 : Mr.P.Thambi Durai
Government Advocate

For R2 : Mr.S.Nedumaran

ORDER

This Civil Miscellaneous Petition is filed to condone the delay of 170 days in filing Civil Appeal against fair and decreetal order in L.A.O.P.No.175 of 2021 on the file of the IV Additional District Court, Madurai.

2. The petitioner has stated reasons in the accompanying affidavit filed along with the civil miscellaneous petition are follows:

The first respondent issued acquisition notice in respect of the petitioner's land in S.No.32/5C to an extent of one acre in Kodimangalam village, Madurai North Taluk under National Highways Act, 1956. The petitioner contested the proceedings, however the 1st respondent passed award. When the petitioner approached to withdraw the compensation amount the 2nd respondent disputed the same without any proper reason,



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so the 1st respondent proceeded to refer the matter to the Principal District Court, Madurai, for deciding as to who is entitled to receive the compensation amount. The IV Additional District Court, Madurai has closed the matter on 30.10.2024, directing the parties to approach appropriate forum. The second respondent filed W.P(MD)No.6467 of 2025 and no notice was served on the petitioner. This Court passed order directing the IV Additional District Court, Madurai, to dispose of referred matter. The petitioner and the 2nd respondent filed the petitions in I.A.No.2 of 2025 in LAOP.No.175/2021 and I.A.No.1/2025 in LAOP.No.175 of 2021. The petition in IA.No.1/2025 in LAOPNo.175 of 2021 was allowed in favour of 2nd respondent and the petition I.A.No.2 of 2025 in LAOP.No.175 of 2021 filed by the petitioner was dismissed on 14.08.2025. The petitioner is senior citizen and due to age factor & domestic issue he was unable to approach this court in time, the petitioner has arguable case on merits. The petitioner has right of property over the acquired land and that right will not be taken away by private respondent without title. So, the delay may be condoned.



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3. The second respondent filed a counter and objected the petition and stated as follows:

The second respondent is the title holder of the acquired property as he got sale deed executed by the Court in E.P.No.312 of 1999 in O.S.No.1000 of 1995 of the III Additional Sub Court, Madurai. Since the 1st respondent issued acquisition proceedings and passed award, the 2nd respondent filed the claim petition. So the matter was referred to the Principal District Court, Madurai in LAOP.No.175 of 2021 which was transferred to the IV Additional District Court, Madurai. Though the IV Additional District Court, Madurai passed order on 30.10.2024 as there is no dispute, the 2nd respondent filed W.P.No.6467 of 2025 before this Court. This Court passed the order on 11.03.2025. The 2nd respondent filed the petition in I.A.No.1 of 2025 in LAOP.No.175 of 2021. The IV Additional District Court, Madurai has given sufficient opportunities to parties and allowed the petition, so the 2nd respondent is entitled to compensation amount. The petitioner has no right over the acquired property. The petitioner filed the Civil Revision Petition before this Court which was withdrawn on 12.09.2025. Hence, this petition is devoid of merits. Therefore, the petition may be dismissed.



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4. The learned counsel for the petitioner has submitted that the original owner Ramaiah Konar sold the property to one Susila on 11.03.1996. From the said Susila the petitioner purchased the property on 15.07.1996. The petitioner constructed commercial building and has been in possession for 23 years. The 1st respondent acquired the property and demolished the building admitting the possession of the petitioner. So, the petitioner is entitled to the compensation amount. Before the trial Court, the 2nd respondent has not examined any witness and not produced any document. But, the trial Court without analysing the same passed impugned order based on averments. So, the petitioner has arguable points. Since the petitioner is aged and is facing age related issues, the delay is occurred. Hence, the delay may be condoned.

5. Per contra, the learned counsel for the 2nd respondent has vehemently contended that this 2nd respondent entered into the sale agreement with the original owner Ramiah Konar. As the said Ramaiah Konar dragged to execute the sale deed, the 2nd respondent filed the specific performance suit in O.S.No.1000 of 1995 before the III Additional Sub Court, Madurai and that suit was decided in favour of the 2nd respondent on



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merits. After that, the 2nd respondent filed the Execution Petition and the sale deed was registered in his favour. The petitioner purchased the property during pendency of the suit and the trial Court has also discussed the same in O.S.No.1000 of 1995. The 2nd respondent's claim petition in I.A.No.1 of 2025 in LAOP.No.175 of 2021 is properly considered and the same was allowed by the IV Additional District Court, Madurai. Hence, the petition may be dismissed.

6. The learned Government Advocate for the first respondent submits that the first respondent is only a formal party.

7. Heard both sides and perused the records in this petition. On perusal of records it is clear that the 1st respondent acquired the property in question under the National Highways Act and passed award. As there was dispute over the compensation amount, the matter was referred to the Principal District Court, Madurai in LAOP.No.175 of 2021, which was made over to IV Additional District Court, Madurai. The IV Additional District Court, Madurai closed the LAOP.No.175 of 2021 on 30.10.2024 as there is no dispute. Challenging the same, the main Appeal Suit has been filed.



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8. Both parties argued the matter at length mostly regarding merits and title over the property in question. This petition is only for condoning the delay. Hence, the rival arguments can not be decided in this petition and the same can be agitated in main appeal only. The petitioner stated reason for the delay that he is aged and he is facing domestic issues as well as age related issues, so he could not be able to file appeal in time. It is pertinent to note here that already the petitioner filed Civil Revision Petition and the same was withdrawn. It is settled position of law that each and every litigant has to be given sufficient opportunity of hearing in appeal and the delay in filing appeal would not curtail the appeal right of every litigant. In the above facts and circumstances, this Court is inclined to condone the delay and thus, this petition is to be allowed.

9. In the result, this Civil Miscellaneous Petition is allowed. Registry is directed to number the Appeal Suit if it is otherwise in order and list the matter in the usual course.

05.02.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
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